

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO**

**U.S. FEDERAL BUILDING & COURTHOUSE
550 W FORT ST MSC 042
BOISE ID 83724**

Cameron S Burke
Court Executive/Clerk

ANNOUNCEMENT TO ATTORNEYS AND THE PUBLIC

**LOCAL RULES OF BANKRUPTCY PRACTICE
BEFORE THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO**

Revised and adopted January 1, 200~~8~~7

The local rules are available for public viewing at each Federal Courthouse in Idaho (Boise, Pocatello, Coeur d'Alene and Moscow).

Local rules, among other documents, are available on the court's Internet website at <http://www.id.uscourts.gov>. If you do not have access to the Internet, local rules can be copied on to electronic media (cd, diskette) by bringing it to the Clerk's office in Boise at the U.S. Courthouse and Federal Building, 550 W Fort St, Room 400. You can also send your request, with a return addressed and stamped mailer, to:

Clerk, U.S. Bankruptcy Court
550 W Fort St MSC 042
Boise, ID 83724

We welcome your comments and suggestions ~~which will be forwarded to the Rules Committee.~~ **Please e-mail them to: Bankruptcy Local Rules Committee**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO**

LOCAL RULES

**LOCAL BANKRUPTCY RULES OF PROCEDURE
FOR THE
UNITED STATES BANKRUPTCY COURT
IN THE DISTRICT OF IDAHO**

Effective Date: January 1, 2008~~7~~

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LOCAL BANKRUPTCY RULE 1007. 4 PAYMENT ADVICES

(a) Filing of Payment Advices

Except where the court orders otherwise for good cause shown, debtors shall file payment advices as required by § 521(a)(1)(B)(iv) with the court, and shall simultaneously serve a complete and unredacted copy thereof on the trustee appointed in that debtor's case. The payment advices filed with the court shall be maintained as sealed documents absent order of the court to the contrary for cause shown.

(b) Statement that No Payment Advices Available

Where debtors did not receive payment advices within the time period set forth in § 521(a)(1)(B)(iv), they shall file a statement to that effect. The statement shall also provide the reason why no payment advices were received. Debtors shall simultaneously serve a complete and unredacted copy of that statement on the trustee appointed in that debtor's case.

Related Authority:

11 U.S.C. § 521(a)(1)(B)(iv)
Interim Fed. R. Bankr. P. 1007(b)(1)(E)

Advisory Committee Notes:

~~Notes to 2006 revisions:~~ Payment advices are filed with the court pursuant to the Code but maintained as sealed documents, limiting parties' access to this information. It is critical that the case trustees promptly receive this information in order to perform their jobs, but present ECF functionality does not allow for selective access to sealed materials. Therefore, this Rule places the burden on debtors to promptly serve the trustee with copies of the payment advices filed with the court or a copy of the statement that no payment advices were received.

LOCAL BANKRUPTCY RULE 1007.5
STATEMENT OF DOMESTIC SUPPORT OBLIGATIONS

In Chapter 7 bankruptcy cases and within the time provided by Fed. R. Bankr. P. 1007(c), the Debtor shall file with the court a separate “Statement of Domestic Support Obligation”. All current and past due Domestic Support Obligations as defined by 11 U.S.C. § 101(14A) shall be reported on said statement. The statement shall include: (1) the name, address, phone number, last known name of employer and address of employer of the debtor and any person responsible with the debtor for the support; (2) the name, address and phone number of the holder of such claim of support; (3) the amount of the support obligation; (4) the term of the support obligation; (5) the amount that the debtor is in arrears as of the filing of the bankruptcy petition, if any; (6) the identity of the court action where an order, judgment or decree establishing said Domestic Support Obligation was entered; and (7) the name and address of any State child support enforcement agency involved with such claim.

Related Authority:

11 U.S.C. §§ 101(14A), 521(a)(3), 704(a)(10) & (c)
Fed. R. Bankr. P. 1007

Advisory Committee Notes:

The Advisory Committee has promulgated a standard form statement that can be found on the court website at: www.id.uscourts.gov.

LOCAL BANKRUPTCY RULE 2002.5
FILING AND CONFIRMATION OF CHAPTER 13 PLAN

(a) Chapter 13 Plan and Schedules Filed with Petitions

(1) Applicability.

When the chapter 13 plan and all other schedules and statements are filed with the bankruptcy petition, as identified in LBR 2002.3, an accelerated confirmation process is available provided the requirements set forth herein in subpart (a) are satisfied.

(2) Notice to Creditors.

The BNC shall send to the debtor, debtor's attorney, the trustee, and all creditors and parties in interest, a notice that advises them of the provisions of this rule. This notice shall be sent at the same time as, and may be incorporated within, the notice of the § 341(a) meeting of creditors. The clerk shall schedule a confirmation hearing date, in the event an actual hearing is required under this rule, and provide notice of the date on the notice of the § 341(a) meeting of creditors.

(3) Objections to Confirmation of the Plan.

Any objection to the confirmation of the plan must be in writing and filed with the clerk, the trustee, debtor, and debtor's attorney prior to or on the date of the scheduled § 341(a) meeting of creditors, or within five (5) days thereafter. An objection to confirmation must set forth with specificity the grounds for objection and is governed by Fed. R. Bankr. P. 9014.

(4) Confirmation of Plan Without Objection.

Where no objection to confirmation of a chapter 13 plan is filed within the time limits established by this rule, then a judge, without hearing, may enter an order confirming the plan.

(b) Chapter 13 Plan and Schedules Not Filed With Petition.

(1) Objections to Confirmation of the Plan.

When the chapter 13 plan and all other schedules and statements are not filed with the petition, as identified in LBR 2002.3, any objections to confirmation of the plan must be in writing and filed with the clerk, the trustee, debtor and debtor's attorney no later than five (5) days prior to the time set for the confirmation hearing. An objection to confirmation must set forth with specificity the grounds for objection and is governed by Fed. R. Bankr. P. 9014.

(2) Notice of Hearing

When the chapter 13 plan and all statements are not filed with the petition, as identified in LBR 2002.3, the notice of hearing of confirmation required by LBR 2002.3(a) shall state that any objection to the confirmation of the plan must be in writing and filed with the clerk, the trustee,

debtor and debtor's attorney no later than five (5) days prior to the time set for the confirmation hearing. If the hearing is set by the debtor with a plan filed and noticed after the petition is filed, the date of the confirmation hearing must be **in compliance with § 1324(b)** ~~no later than 20 days after the first § 341(a) Meeting of Creditors.~~

(3) Confirmation of Plan Without Objection

Where no objection to confirmation of plan is filed within the time limits established by this rule, ~~then~~ **then** a judge, without hearing, may enter an order confirming the plan.

(c) Amendment of Plans

The proposed plan may be amended anytime prior to the hearing scheduled under subdivision (e) of this rule to resolve an objection. Such amendment must be included in an amended plan or in the order for confirmation. Where a timely objection has been made, the plan will not be confirmed until the objecting party has withdrawn such objection or a hearing is held as provided in subdivision (e) of this rule. Where the amendment does not affect any other party in interest, a judge may confirm the plan as amended without notice or a hearing. Where the amendment would affect another party in interest, the plan as amended must be mailed to each affected party with a notice providing twenty (20) days to object to the amendment. If no objection is made within the time allowed, a judge may confirm the plan as amended without a hearing.

(d) Objections not Resolved by Amendment of the Plan.

Where an objection to a proposed chapter 13 plan cannot be resolved by an amendment to the proposed plan, or where the trustee does not recommend confirmation, the court shall hold a confirmation hearing to resolve the objection.

(e) Standard Chapter 13 Plan and Order.

~~When possible,~~ **The debtor shall use the standard approved chapter 13 plan and order for this district with such alterations as may be appropriate in a particular case.** If the debtor provides additions, deletions, or other modifications, the debtor shall provide at the beginning of the plan or order a notice that the chapter 13 plan or order contains deviations, and the deviations shall be clearly identified. If the debtor is represented by an attorney, the plan or any amended plan shall be signed by the attorney at the time it is filed and shall be signed by the debtor prior to the confirmation hearing. If the debtor is not represented by an attorney, the plan shall be signed by the debtor at the time it is filed. If either the plan or any amended plan is further amended and the amendments are contained in the order confirming the plan, the proposed order confirming the plan shall be signed by the debtor, the debtor's attorney, the trustee, and any other party in interest affected by the amendments.

Related Authority:

11 U.S.C. §§ 1302, 1322, 1323, 1324, 1325
Fed. R. Bankr. P. 2002, 3015

Advisory Committee Notes:

The process of confirmation as structured under this rule is designed to protect interests of objecting creditors, while allowing accelerated confirmation of plans and payment to creditors in the large majority of chapter 13 cases where there are no objections or where objections can be readily resolved. The notice and timing requirements under the Federal Rules of Bankruptcy Procedure make the accelerated confirmation process appropriate only in those cases where the plan is filed with the petition, and the clerk is able to issue notice. In all other cases, the debtor must file the plan within fifteen (15) days of the petition. *See* Fed. R. Bankr. P. 3015(b), and provide copies of the plan and notice of confirmation hearing to all creditors and parties in interest, in compliance with Fed. R. Bankr. P. 2002 and 3015, and these local rules.

LOCAL BANKRUPTCY RULE 2003.1
SECTION 341(a) MEETING OF CREDITORS

(a) **Requests ~~Applications~~ for Continuance.**

A continuance of the § 341(a) meeting of creditors ~~must either~~ **can** be requested of the presiding officer at the time of the § 341 meeting. ~~or, Alternatively, a written request can be made in advance of the meeting or no~~ **not** later than ten (10) days after the scheduled meeting. ~~The written request shall be made , by written application to the U.S. Trustee and accompanied by an affidavit identifying the circumstances necessitating the delay. A continuance will not be allowed except where extenuating circumstances render the debtor(s) or debtors' counsel unable to appear. A continuance will not be allowed for a conflict involving the debtor's attorney.~~

(b) **Waiver of Meeting.**

A request pursuant to § 341(e) that the § 341(a) meeting of creditors and/or equity security holders not be convened, shall be made to the court at the time of filing the petition for relief. If not timely filed, the right to seek such relief shall be deemed waived.

(c) **Notice and Service.**

If a continuance of the §341(a) meeting is granted by the presiding officer or U.S. Trustee, the debtor or debtor's attorney must send notice of the continuation to the creditors at least seven (7) days prior to the date of the continued meeting. The notice must include the date, time, and location of the continued meeting, and, if the case is a chapter 13, the notice must also include the date, time and location of the continued confirmation hearing. Proof of service of the continuation notice must be filed with the clerk and must list each party served and their mailing address.

(d) **Dismissal.**

If the debtor fails to appear at the §341(a) meeting and, if either no continuance is requested within ten (10) days after the scheduled meeting, or no continuance is granted by the Presiding Officer or U.S. Trustee, the U.S. Trustee may apply for an order of dismissal provided that the file contains proof that a notice of the meeting was sent to the debtors.

(e) **Notice To Other Courts.**

The debtor's attorney (or the debtor if *pro se*) shall provide a notice of the commencement of the bankruptcy case to all courts in which the debtor is known to be a party. Such notice shall reasonably identify to such court(s) the case or action affected by the debtor's bankruptcy.

Related Authority:
11 U.S.C. §§ 341, 343
Fed. R. Bankr. P. 2003, 2004, 4002

Advisory Committee Notes:

This reflects the responsibilities of the U.S. Trustee in conducting § 341(a) meetings. It follows [General Order No. 61](#) effective April 1, 1990.

~~While not as significant a problem as in other districts, failure to appear and/or failure to advise the court of the need for a continuance are still common and require a mechanism to control abuse.~~
Requests for continuances based on debtors' counsel's extenuating circumstances should normally be made at least ten days prior to the scheduled meeting of creditors.

Under subdivision (d) of the rule, the U.S. Trustee may request that the case be dismissed. However, the U.S. Trustee or panel trustee may elect to have the case remain open, for example, to administer assets or oppose entry of the debtor's discharge based on the failure to appear. *See* 11 U.S.C. §§ 704, 727. Note also that dismissal on this ground **may** fall within the scope of the prohibition of § 109(g)(1) on filing a subsequent petition for relief.

For purposes of planning and avoiding potential conflicts, note that the court's calendar for § 341(a) meeting dates is set one year in advance. Copies of this calendar are available, without charge, from the office of U.S. Trustee or at www.id.uscourts.gov.

LOCAL BANKRUPTCY RULE 2014.1
APPROVAL OF EMPLOYMENT OF PROFESSIONAL PERSONS

(a) Applications for Approval of Employment of Professional Persons.

In addition to including the information required by Fed. R. Bankr. P. 2014(a), an application for approval of employment of a professional person shall be signed by the trustee, debtor-in-possession or committee, and shall state the following information:

- (1) The proposed arrangement for compensation. If there is a retainer, the application shall disclose all pre-petition fees and expenses drawn down against the retainer, and any written retainer agreement shall be attached to the application; and
- (2) To the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, or any other party in interest, their respective attorneys and accountants, the U.S. Trustee, or any person employed in the office of the U.S. Trustee.

(b) Service and Proof of Service.

- (1) Copies of the application for approval of employment, the verified statement, any accompanying documents, and the proposed order approving employment shall be transmitted to the office of the U.S. Trustee in Boise.
- (2) In a non-chapter 11 case, service shall also be made upon the debtor(s), debtor(s)' counsel, the trustee, and trustee's counsel.
- (3) In a chapter 11 case, service shall also be made upon members of any creditors' committee(s) and any attorneys appointed to represent the committee(s). In the event no committee has been appointed, service shall also be made on the 20 largest unsecured creditors. In a chapter 11 case, service shall also be made on the debtor and the attorney for the debtor if the application is made upon behalf of a party other than the debtor.
- (4) Proof of such service shall be filed with the application.

(c) Entry of an Order of Approval of Employment.

If neither the U.S. Trustee nor any other party in interest objects to the application for approval of employment of the professional within fourteen (14) calendar days of the date of service of the application, the court may enter the order approving the employment of the professional without a hearing. If an objection to the application is timely filed, then the applicant shall schedule a hearing on the application and serve notice of the hearing on the U.S. Trustee and all other parties in interest. Proof of such service shall be filed with the notice of hearing. Any order of approval of employment entered by the court will relate back to the date of service of the application.

Related Authority:
11 U.S.C. §§ 327, 328
Fed. R. Bankr. P. 2014, 9034

Advisory Committee Notes:

2007 Advisory Committee Note: Based on the December 1, 2007 amendments to Fed. R. Bankr. P. 6003, orders approving employment of professionals will be entered 14 days after notice provided by this rule or 20 days after the filing of the petition, whichever is later.

Fed. R. Bankr. P. 2014 governs applications for employment of professional persons. This rule sets forth a minimum standard of notice. In many cases, a party may wish to set an actual hearing and/or provide notice to all parties in interest. The rule is not designed to prohibit such an approach.

LOCAL BANKRUPTCY RULE 2016.1
CHAPTER 13 REPRESENTATION AND COMPENSATION

(a) Applicability.

Attorneys representing debtors in cases under chapter 13 of the Bankruptcy Code may elect to establish terms of compensation for their services under the requirements and conditions of this rule. If they elect not to do so, the terms and conditions of employment shall be as established by appropriate written agreement, and compensation shall be subject to the requirements of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, including but not limited to § 330(a)(4)(B).

(b) Presumptive fee.

If an attorney elects to establish compensation for representation of debtors in chapter 13 cases under this rule, and upon compliance with the terms and conditions of this rule, the attorney shall be allowed a fixed fee not to exceed the amount provided in a General Order of this court for all services rendered or to be rendered throughout the duration of the chapter 13 case, and inclusive of all costs and expenses with the exception of ~~the initial petition filing fee and amendment filing fees.~~ This fixed fee shall be presumptively reasonable and allowable under § 330(a)(4)(B) without itemization of time or other submission. The chapter 13 plan may make provision for the payment of any portion of such fee not paid by the debtor(s) prior to the filing of the petition.

- (1) Inasmuch as such fee's reasonableness is presumptive only, the court may, in its discretion or upon request of the debtor, the chapter 13 trustee, the U.S. Trustee, a creditor or party in interest, conduct a hearing to consider the reasonableness of such fee under all the facts and circumstances of the case. The court may, as a result of such hearing, reduce or modify such fee.

(c) Required use of Model Retention Agreement.

An attorney seeking to establish presumptive compensation under this rule shall execute and be bound by the Model Retention Agreement in the form required by the court. Such attorney shall also obtain the signatures of the debtor(s) to the Model Retention Agreement. A copy of the fully executed Model Retention Agreement shall be attached to the statement filed by the attorney under Fed. R. Bankr. P. 2016(b).

(d) Applications for fees in addition to presumptive amount.

In extraordinary circumstances, an attorney receiving presumptive compensation under this rule may seek additional fees through an application for allowance of additional compensation and, if necessary, a motion to modify a confirmed plan. Such an application shall be set for a hearing upon notice to the debtor(s), the chapter 13 trustee, the U.S. Trustee, and all creditors and parties in interest. Such an application shall be accompanied by an affidavit justifying the request and including an itemization of all services rendered by the attorney, from the initiation of representation of the debtor(s) through the date of application, supporting the total amount of compensation sought.

This affidavit shall be filed with the court and served on the debtor(s), the chapter 13 trustee, and the U.S. Trustee.

Related Authority:

11 U.S.C. § 329, 330, 503(b)(2)
Fed. R. Bankr. P. 2016

Advisory Committee Notes:

This rule provides an alternative fee approach to counsel representing chapter 13 debtors. Ordinarily, counsel representing debtors in chapter 13 cases would be required to support fees paid pre-petition or through a confirmed plan by providing itemization on a time and hour basis. This court has previously as a matter of practice waived, in most cases, the requirement of itemization of services for counsel charging a fee for services in the case not exceeding \$1,000.00. *See generally In re Gebert*, 99.4 I.B.C.R. 137, 138 (Bankr. D. Idaho 1999).

The court wishes to ensure reasonable and adequate compensation is paid chapter 13 debtors' counsel, to encourage full performance of duties by such counsel throughout the duration of the case as debtors' needs and changed circumstances require; and to eliminate the expense of serial requests for incremental fees through modified plans. It has elected to do so through a significantly higher presumptively reasonable fee, but conditions its availability to those cases where debtors and their counsel agree to a standard form of retention agreement outlining the mutual duties and responsibilities of attorney and client.

Under this rule, counsel may charge and receive a fixed fee not to exceed the amount provided in a General Order of this court for all services rendered or to be rendered in the chapter 13 case. Use of this alternative requires that the attorney and the client execute the Model Retention Agreement, which may be found in Appendix II of the Local Bankruptcy Rules. A copy of the executed Model Retention Agreement must be attached to counsel's Rule 2016(b) statement.

The contemplation is that this compensation is a fixed fee for all services in the case, and not a base fee that in ordinary cases would be subject to post-confirmation requests for additional fees. However, in extraordinary circumstances, an attorney could seek relief from the fixed fee, and additional compensation, though only upon an application with supporting affidavits, notice, and actual hearing.

LOCAL BANKRUPTCY RULE 4001.1
USE OF CASH COLLATERAL AND OBTAINING POST PETITION CREDIT

(a) **Motions to Use Cash Collateral.**

Motions for use of cash collateral shall set forth the information required by Fed. R. Bankr. P. 4001 and shall contain, at a minimum, the following information: ~~Motions by the debtor in possession or trustee for authorization to use cash collateral must contain, at a minimum, the following information:~~

- ~~(1)~~ Identity of all entities known to the debtor or trustee, holding or claiming to hold an interest in cash collateral and a description of such interests;
- ~~(2)~~(1) Identity of the creditor(s) whose cash collateral is to be utilized and the relationship, if any of the creditor(s) to the debtor;
- ~~(3)~~ The amount, nature and source of the cash collateral;
- ~~(4)~~(2) If interim use is requested, the amount of cash collateral to be used until the time of the final hearing on the motion to use cash collateral and the amount of cash collateral to be used thereafter;
- ~~(5)~~(3) A line-item budget listing projected income and expenses for one year. If interim use is requested, the budget must also include projected income and expenses until the time of the final hearing on the motion;
- ~~(6)~~(4) The estimated balance owed to the creditor(s) identified in paragraph (a)(2)(1), as of the date the petition was filed, including any accrued, unpaid interest, cost or fees as provided in the agreement;
- ~~(7)~~(5) If the cash collateral is rent, the amount of the gross and net rent realized each month, a description of the property from which the rent is generated, and an estimate of its fair market value;
- ~~(8)~~(6) If the cash collateral is receivables, a description and itemization of such receivables and, if any accounts receivable aging statement exists, the same must be provided to the affected creditor(s) and any party requesting such statement;
- ~~(9)~~(7) The estimated fair market value, and the basis of the estimate, of the collateral which allegedly secures the creditor's claims;
- ~~(10)~~(8) The estimated value, and the basis of the estimate, of any property offered as adequate protection; The method or means by which the interests of the creditor are to be adequately protected, and the estimated value, and the basis for the estimate, of any property offered as adequate protection and

- ~~(11)~~(9) A statement of whether or not the debtor proposes any provision contained in the Guidelines Regarding Motions to Use Cash Collateral or to Obtain Credit, or Stipulations Regarding the Same which is other than a provision normally approved by the court (under subsection (a) of the Guidelines) and, if so, the provision shall be clearly identified.

(b) **Motions to Obtain Credit.**

Motions by the debtor in possession or trustee for authorization to obtain postpetition credit or for approval of a postpetition financing agreement ~~shall must~~ contain ~~the information required by Fed. R. Bankr. P. 4001 and also shall contain~~, at a minimum, the following information:

- (1) Identity of the lender, vendor or other creditor (hereafter “creditor”) and relationship, if any, of the creditor to the debtor;
- ~~(2)~~ ~~The amount of credit to be obtained or, in the case of line of credit financing, the maximum amount to be outstanding at any one time.~~
- ~~(3)~~ ~~The terms of credit to be obtained.~~
- ~~(4)~~(2) If funding is to be incremental, timing of funding or method by which funding is to be determined;
- ~~(5)~~(3) A line-item budget listing projected income and expenses for an appropriate period given the request made. If interim financing is requested, the budget ~~shall must~~ also include projected income and expenses until the time of the final hearing on the motion;
- ~~(6)~~(4) If the creditor is a pre-petition creditor, the following information:
 - (A) The balance owed to the creditor, as of the date the petition was filed, including any accrued, unpaid interest, cost or fees provided in the agreement;
 - (B) If the lender is secured by receivables, an accounts receivable aging statement;
 - (C) A description of the collateral which allegedly secures the creditor’s claims, an estimate of its fair market value, and the basis of the estimate;
- ~~(7)~~(5) A description of the collateral, if any, to secure the postpetition financing, and the current fair market value of that collateral;
- ~~(8)~~(6) If any other entity has, or claims, an interest in the collateral proposed to secure the post-petition credit or financing;

- (A) The balance owed that entity;
- (B) Whether the interest of that entity is to be subordinated to the post-petition financing; and if so:
 - (i) Whether the subordinated entity has consented; or
 - (ii) In the absence of consent, how the interest of that entity is to be adequately protected; **and**
- ~~(9)~~(7) A statement of whether or not the debtor proposes any provision contained in the Guidelines Regarding Motions to Use Cash Collateral or to Obtain Credit, or Stipulations Regarding the Same which is other than a provision normally approved by the court (under subsection (a) of the Guidelines) and, if so, the provision shall be clearly identified.

(c) Cash Collateral and Credit Agreements.

Motions for the approval of an agreement for use of cash collateral and/or for postpetition credit or financing **shall must** set forth in the body of the motion ~~the information required by paragraphs (a)(1) through (a)(11), and, or (b)(1) through (b)(9), as appropriate, and~~ whether or not the agreement includes any provision contained in the Guidelines Regarding Motions to Use Cash Collateral or to Obtain Credit, or Stipulations Regarding the Same which is other than a provision normally approved by the court, (under subsection (a) of the Guidelines) and, if so, the provision shall be clearly identified.

(d) Motions Heard on Shortened Time.

- (1) If emergency motions for interim relief made under subsections (a), (b), or (c) of this rule are requested to be heard on shortened time, such request shall be served by facsimile or personal delivery to the entities identified in the applicable provision of Fed. R. Bankr. P. 4001, the United States Trustee, the trustee, if any, and any creditor or party whose rights or interests may be directly affected if the requested relief is granted.
- (2) All requests for hearings on shortened time **shall must** set forth with specificity:
 - (A) **T**he immediate and irreparable harm the estate will suffer if relief is not immediately granted;
 - (B) **T**he extent of the relief required to prevent such immediate and irreparable harm to the estate; and
 - (C) **A**s much of the information required by subsection (a), (b), or (c) of this rule, as applicable, as may be necessary to establish the necessity of relief to avoid immediate and irreparable harm to the estate pending a final hearing.

(e) **Notice of Final Hearing.**

Notice of the final hearing on a motion for the use of cash collateral under subsection (a), to obtain credit under subsection (b), or for approval of an agreement under subsection (c) ~~shall~~ **must** be given, together with a copy of the motion or agreement if not previously served, to the persons specified in paragraph (d)(1) and such other persons as the court may direct.

Related Authority:

11 U.S.C. §§ 361, 363, 364
Fed. R. Bankr. P. 2002, 4001, 6004, 9006, 9034
LBR 9034.1

Advisory Committee Notes:

The Guidelines Regarding Motions to Use Cash Collateral or to Obtain Credit, or Stipulations Regarding the Same are found in Appendix I of the Local Bankruptcy Rules.

LOCAL BANKRUPTCY RULE 5005.2
DOCUMENTS FOR FILING OR ADMINISTERING

(a) Petitions.

At the time of filing, documents may be reviewed for format and legibility; correct size of paper (8 ½ x 11) for scanning purposes and signatures.

If filed in paper by pro se litigants, documents must be affixed by a fastener (i.e., paper clip,) and NOT staples.

(b) No Filing Fee or an Inappropriate Amount Submitted; and Facsimile Pleadings.

The clerk has been given authority by General Order to refuse to accept or file:

- (1) Any facsimile pleadings mailed or faxed to the clerk which do not comply with General Order 201, or
- (2) Any petition or pleading not accompanied by the required filing fee under 28 U.S.C. § 1930.

(c) General Format of Papers Presented for Filing.

- (1) Except for proposed orders submitted to the court, starting 1 inch from the top of the first page, the following information must appear in the upper left-hand corner of the first page of each paper presented for filing, except that in multiparty actions or proceedings, reference may be made to the signature page for the complete list of parties represented:
 - (a) Name of the attorney (or if in propria persona, of the party);
 - (b) E-mail address;
 - (c) Idaho State Bar Number (if applicable);
 - (d) Office mailing address;
 - (e) Telephone number;
 - (f) Facsimile number; and
 - (g) Specific identification of the party represented by name and interest in the litigation (i.e., debtor, creditor, plaintiff, defendant, etc.).

- (2) Any pleading, motion or other paper presented for filing must be submitted in 12 to 14 font, with the exception of forms, exhibits, attachments or other documents which cannot be converted to this font.
- (3) (a) Following the counsel identification, a caption in the following form should appear:

~~IN THE~~ UNITED STATES BANKRUPTCY COURT
~~FOR THE~~ DISTRICT OF IDAHO

In Re)	
)	
[Debtor Name])	Case Number: _____
)	
Debtor)	Chapter Number: _____
)	
_____)	
		[Title of Pleading]
		[Designation of Character of Paper]

- (b) In completing the form of caption, insert in place of bracketed material the debtor(s) name and **designation of character of paper** ~~title of the pleading~~. When completing the case number, include three letter suffix indicating the assigned judge (*i.e.*, 07-00001-TLM or 07-00001-JDP)

Related Authority:

28 U.S.C. § 1930
Fed. R. Bankr. P. 2016, 5005
LBR 1002.1, 1006.1, 1006.2, 1007.1, 1009.1, 4001.2, 5007.1, 5010.1, 7003.1, 9004.1, 9004.2
District of Idaho General Order nos. 97, 154, 187, 201
Official Form 16A

Advisory Committee Notes:

The procedures on facsimile filing are governed by District of Idaho [General Order 201](#), that is available on the court's website, or you may call the local clerk's office.

With respect to the format for adversary captions, refer to LBR 7003.1.

LOCAL BANKRUPTCY RULE 7003.1
COMMENCEMENT OF ADVERSARY PROCEEDINGS

(a) **Cover Sheet.**

A completed “Adversary Proceeding Cover Sheet” and attendant fee shall accompany every complaint commencing an adversary proceeding under Fed. R. Bankr. P. 7003, together with a summons prepared in compliance with the Federal Rules of Civil Procedure, ~~with sufficient copies for service. The clerk upon request will furnish blank forms for compliance with this rule.~~

(b) **Form.**

All pleadings in an adversary proceeding shall meet the requirements of Fed. R. Bankr. P. 7010 and the Official Forms, including identification of the debtor and the debtor's bankruptcy case number.

- (1) The bankruptcy case number shall include the three letter suffix indicating the assigned judge (*i.e.*, 05-00001-TLM or 05-00001-JDP).

(c) **Adversary Number and Summons.**

Upon the filing of a complaint under Fed. R. Bankr. P. 7003, the clerk will assign the proceeding an adversary number, which number must thereafter appear on all pleadings and issue the summons which will then be returned to the plaintiff who will be responsible for service according to Fed. R. Bankr. P. 7004.

- (1) The adversary ~~case~~ **proceeding** number shall include the three letter suffix indicating the assigned judge (*i.e.*, 05-6001-TLM or 05-6001-JDP).

Related Authority:

Fed. R. Bankr. P. 7003, 7004, **7007.1**, 7010, 9004(b)

Advisory Committee Notes:

A corporate ownership statement pursuant to Fed R. Bankr. P. 7007.1 must be filed concurrently with the complaint or responsive pleading, as applicable.

LOCAL BANKRUPTCY RULE 7037.1 DISCOVERY MOTIONS

(a) Obligation to Confer.

The Court will not consider a motion made pursuant to Fed. R. Bankr. P. 7026 to 7037 or Fed. R. Bankr. P. 9016 unless, prior to the filing of the motion the parties have conferred and attempted to resolve their differences in good faith. The mere sending of a written, electronic, or voicemail communication does not satisfy this requirement. Rather, this requirement can be satisfied only through direct dialogue and discussion in person or in a telephone conversation.

(b) Certificate of Compliance.

Counsel for the moving party shall include in the motion a certificate of compliance with this Rule. The certificate of compliance shall indicate that the parties have conferred in good faith and shall set forth sufficient facts in the motion to allow the court to evaluate the adequacy of the compliance with this Rule..

(c) Certificate of Non-compliance.

In the event that the parties were unable to meet and confer as described in section (a) above, counsel for the moving party shall include in the motion a certificate setting forth sufficient facts to demonstrate that attempts to comply with this rule were made, and why the parties were unable to comply with this Rule. The moving party shall set forth facts sufficient to allow the Court to evaluate the adequacy of the attempts to confer.

(d) Failure to Comply.

If counsel fails or refuses to comply with this Rule, the Court may deny any discovery motion and may order the payment of reasonable expenses, including attorneys' fees.

Related Authority:
Fed. R. Bankr. P. 7026-37, 9016

LOCAL BANKRUPTCY RULE 5005.3 9037.1
PROTECTION OF PERSONAL PRIVACY
PRIVACY PROTECTION FOR FILINGS
MADE WITH THE COURT

(a) ~~In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, parties shall not include, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court:~~

- ~~———— (1) Social Security numbers. If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.~~
- ~~———— (2) Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.~~
- ~~———— (3) Dates of birth. If an individual's date of birth must be included in a pleading, only the year should be used.~~
- ~~———— (4) Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.~~

(a) It is the sole responsibility of counsel and the parties to be sure that the redaction of personal identifiers **pursuant to Fed. R. Bankr. P. 9037** is **completed** ~~done~~. The clerk will not review **filings** ~~each pleading~~ for redaction.

(b) A party wishing to file a document containing the personal data identifiers listed in **Fed. R. Bankr. P. 9037** ~~above~~ may file an unredacted document under seal only if the party believes maintenance of the unredacted material in the court record is critical to the case. The document must contain the following heading in the document, "SEALED DOCUMENT PURSUANT TO **FED. R. BANKR. P. 9037** ~~E-GOVERNMENT ACT OF 2002~~". This document shall be retained by the court as part of the record until further order of the court. The party must also electronically file a redacted copy of this document for the official record.

Related Authority:
Dist. Idaho General Order 179, 183
Fed. R. Bankr. P. 9037

Advisory Committee Notes:

In addition to the privacy items listed in **Fed. R. Bankr. P. 9037** ~~section (a) above~~, the Judicial Conference policy requires that the court not provide public access to the following documents:

juvenile records; ex parte requests for expert or investigative services at court expense; and sealed documents.

Counsel should ~~You are advised to~~ exercise caution when filing documents that contain the following:

- (1) Personal identification number, such as driver's license number;
- (2) Medical records, treatment and diagnosis;
- (3) Employment history;
- (4) Individual financial information;
- (5) Proprietary or trade secret information;
- (6) Information regarding an individual's cooperation with the government;
- (7) Information regarding the victim of any criminal activity;
- (8) National security information;
- (9) Sensitive security information as described in 49 U.S.C. § 114(s).

Counsel is strongly urged to share this information with all clients so that an informed decision about the inclusion of certain materials may be made.

APPENDIX I

GUIDELINES REGARDING MOTIONS TO USE CASH COLLATERAL OR TO OBTAIN CREDIT, OR STIPULATIONS REGARDING THE SAME

The following guidelines apply to motions or agreements to use cash collateral or obtain postpetition credit or financing. LBR 4001.1(a)(11)(9), (b)(9)(7) and (c), require that both interim and final motions contain a statement of whether or not the motion proposes to grant, or whether the agreement of the parties includes, any provision contained in subsection (b) of these guidelines, and, if so, that the provision be clearly identified.

(a) Provisions Normally Approved.

The court will normally approve, or may require, inclusion of the following provisions:

- (1) Withdrawal of consent to use cash collateral or termination of further financing, upon occurrence of a default or conversion to chapter 7;
- (1) Securing any postpetition diminution in the value of the secured party's collateral with a lien on postpetition collateral of the same type as the secured party had prepetition;
- (3) Reservation of rights under § 507(b), unless that provision also calls for modification pursuant to § 726(b);
- (4) Reasonable financial and other appropriate reporting requirements;
- (5) Reasonable requirements for proof of insurance;
- (6) Reasonable requirements for access to property for inspection and appraisal.
- (7) Reasonable budgets and use restrictions and;
- (8) Expiration date for the order.

(b) Other Provisions.

The following provisions are approved, rarely, if ever, on an interim basis. Approval following final hearing is dependent on adequate notice and cause having been shown. Inclusion of any of these provisions will be scrutinized by the court even in the absence of an objection by a party in interest.

- (1) Cross-collateralization clauses that secure prepetition debt by postpetition assets in which the secured party would not otherwise have a security interest by virtue of its prepetition security agreement.

- (2) Provisions or findings of fact that bind the estate or all parties in interest, other than the debtor with respect to the validity, perfection or amount of the secured party's lien or debt.
- (3) Provisions or findings of fact that bind the estate or all parties in interest, other than the debtor, with respect to the relative priorities of the secured party's lien and liens held by persons who are not party to the agreement.
- (4) Provisions securing new advances or value diminution with a lien on postpetition collateral not the same type that the secured party had prepetition.
- (5) Provisions that prime the liens and/or security interests of secured creditors who are not parties to the agreement, unless consented to by the affected creditor.
- (6) Provisions that waive Bankruptcy Code § 506(c) except to the extent effective only during the period in which the debtor in possession or trustee is authorized to use cash collateral or obtain credit.
- (7) Provisions that preclude a future trustee with a duty to care for, preserve, and/or liquidate collateral from recovering the expenses of administration.
- (8) Provisions that characterize any postpetition payments as payments of interest, fees, or costs on prepetition obligations.
- (9) Provisions that operate specifically or as a practical matter to divest the debtor, or any other party in interest, of any discretion in the formulation of a plan or administration of the estate, or limit access to the court to seek any relief under applicable provisions of law.
- (10) Releases of liability for the creditor's prepetition torts, breaches of contract, or lender liability, as well as releases of prepetition or postpetition defenses and/or counterclaims.
- (11) Provisions that waive causes of action.
- (12) Provisions granting a security interest or lien in causes of action or recoveries arising under the Bankruptcy Code.
- (13) Relief from the automatic stay of Bankruptcy Code § 362(a) upon default, conversion to chapter 7, or the appointment of a trustee, without notice.
- (14) Provisions that waive the right to move for a court order under Bankruptcy Code § 363(c)(2)(B) or § 364 (c) and (d) authorizing the use of cash collateral in the absence of the secured party's consent.
- (15) Provisions that carve out administrative expenses that do not treat all such expenses equally or on a pro rata basis.

- (16) Provisions that create an unreasonably short period of limitations for any party in interest (including a successor trustee) to bring claims or causes of action against the lender or secured creditor.
- (17) Provisions that waive the procedural requirements for foreclosure or repossession mandated under applicable non-bankruptcy law.
- (18) Provisions applicable in the event of a dispute under the order or agreement that place jurisdiction or venue in another court.
- (19) Provisions applicable in the event of a dispute or default under the agreement wherein the debtor waives service of process, the doctrine of forum non conveniens, notice and hearing, or the right to a jury trial.
- (20) Findings of fact on matters extraneous to the approval process or without testimony or evidence.